

341.310 Lien on employer's property for contributions. (Effective until January 1, 2007)

- (1) A lien on a parity with state, county, and municipal ad valorem tax liens, and superior to the lien of any mortgage or other encumbrance heretofore or hereafter created is hereby created in favor of the cabinet upon all property of any subject employer from whom contributions, interest or penalties are or may hereafter become due. The lien shall commence from such time as any assessment becomes delinquent and it shall continue until the amount of the original assessment and any subsequent assessments of liability for contributions, interest, penalties or fees are fully paid. The lien shall attach to all interest in property, either real or personal, then owned or subsequently acquired by the person against whom the assessment is made. The cabinet may file notice of the lien with the county clerk of any county or counties in which the subject employer's business or residence is located, or in any county in which the subject employer has interest in property and such notice shall be recorded in the same manner as notices of lis pendens are and the file shall be designated "miscellaneous state tax liens." Such recordation shall constitute notice of both the original assessment and all subsequent assessments of liability against the same subject employer. Upon request, the cabinet shall disclose the specific amount of liability at a given date to any interested party legally entitled to such information. The notice, when so filed, shall be conclusive notice to all persons of the lien on the property having legal situs in that county, except that nothing in this chapter shall be construed to alter or change in any way the law relative to the rights and duties of a holder in due course as provided in KRS Chapter 355, Art. 3, or affect the rights of any person taking the property or a lien thereon for value without actual or constructive notice. The clerk shall be entitled to a fee of five dollars (\$5) for filing the lien, and said fee shall become a part of the lien as an added cost of the delinquent subject employer to be paid by him as a part of the amount necessary to release the lien and shall not be the responsibility of the Commonwealth.
- (2) In addition and as an alternative to any other remedy, the secretary may enforce the lien by petition in the name of this state to the Franklin Circuit Court, if the ministerial acts necessary to enforce the lien by the sale of the lien property or any part of it are performed by the appropriate officers of the Circuit Court of the county in which the property is situated under the direction of and reporting to the Franklin Circuit Court. The manner of enforcement shall be the same as that provided for the enforcement of other tax liens.
- (3)
 - (a) The secretary may issue a certificate of release of lien upon the furnishing of a corporate surety bond satisfactory to the secretary by such employing unit in the amount of one hundred twenty-five percent (125%) of the sum of such contributions, interest and penalty, for which lien is claimed, conditioned upon the prompt payment of such contribution, together with interest and penalty thereon, by such employing unit to the cabinet in accordance with the provisions set forth in such bond.
 - (b) The secretary may issue a certificate of partial release of any part of the property subject to the lien if he finds that the fair market value of that part of

such property remaining subject to the lien is at least equal to the amount of all other liens upon such property plus double the amount of the liability for contributions, interest and penalties thereon remaining unsatisfied.

- (c) The secretary may issue a certificate of partial release of any part of the property or individual piece of property subject to the lien if he finds that the interest of the Commonwealth in the property to be so released has no value.

Effective: July 15, 1988

History: Amended 1988 Ky. Acts ch. 106, sec. 6, effective July 15, 1988. -- Amended 1978 Ky. Acts ch. 384, sec. 485, effective June 17, 1978. -- Amended 1974 Ky. Acts ch. 74, Art. VI, sec. 107(21),(23). -- Amended 1962 Ky. Acts ch. 210, sec. 47. -- Amended 1960 Ky. Acts ch. 164, sec. 2. -- Amended 1952 Ky. Acts ch. 154, sec. 11. -- Amended 1950 Ky. Acts ch. 206, sec. 1. -- Amended 1948 Ky. Acts ch. 216, sec. 9. -- Amended 1942 Ky. Acts ch. 19, secs. 6 and 15. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4748g-8.

Legislative Research Commission Note. A technical correction has been made in this section by the Reviser of Statutes pursuant to KRS 7.136.

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- (2) In addition and as an alternative to any other remedy, the secretary may enforce the lien by petition in the name of this state to the Franklin Circuit Court, if the ministerial acts necessary to enforce the lien by the sale of the lien property or any part of it are performed by the appropriate officers of the Circuit Court of the county in which the property is situated under the direction of and reporting to the Franklin Circuit Court. The manner of enforcement shall be the same as that provided for the enforcement of other tax liens.
- (3) (a) The secretary may issue a certificate of release of lien upon the furnishing of a corporate surety bond satisfactory to the secretary by such employing unit in the amount of one hundred twenty-five percent (125%) of the sum of such contributions, interest and penalty, for which lien is claimed, conditioned upon the prompt payment of such contribution, together with interest and penalty thereon, by such employing unit to the cabinet in accordance with the provisions set forth in such bond.
- (b) The secretary may issue a certificate of partial release of any part of the property subject to the lien if he finds that the fair market value of that part of such property remaining subject to the lien is at least equal to the amount of all other liens upon such property plus double the amount of the liability for contributions, interest and penalties thereon remaining unsatisfied.
- (c) The secretary may issue a certificate of partial release of any part of the property or individual piece of property subject to the lien if he finds that the interest of the Commonwealth in the property to be so released has no value.

Effective: January 1, 2007

History: Amended 2006 Ky. Acts ch. 255, sec. 26, effective January 1, 2007. -- Amended 1988 Ky. Acts ch. 106, sec. 6, effective July 15, 1988. -- Amended 1978 Ky. Acts ch. 384, sec. 485, effective June 17, 1978. -- Amended 1974 Ky. Acts ch. 74, Art. VI, sec. 107(21),(23). -- Amended 1962 Ky. Acts ch. 210, sec. 47. -- Amended 1960 Ky. Acts ch. 164, sec. 2. -- Amended 1952 Ky. Acts ch. 154, sec. 11. -- Amended 1950 Ky. Acts ch. 206, sec. 1. -- Amended 1948 Ky. Acts ch. 216, sec. 9. -- Amended 1942 Ky. Acts ch. 19, secs. 6 and 15. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4748g-8.

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